Please type a plus sign (+) inside this box [+]

PTO/SB/05 (03/01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket Number	**KLYC-01056USE**
Inventor	**James F. Zucherman et al.**
Title	**Method for Lateral Implantation of Spinous Process Spacer**
Express Mail Label No.	**EV 386 447 241 US**

APPLICATION ELEMENTS
See MPEP Chapter 600 concerning Utility Patent Application Contents

ADDRESS TO: Commissioner for Patents
Mail Stop Patent Application
Alexandria, VA 22313-1450

1. ☑ Fee Transmittal Form (PTO/SB/17)
(in duplicate for fee processing)

2. ☑ Applicant claims small entity status
(See 37 CFR 1.27)

3. ☑ Specification   Total Pages **55**
(preferred arrangement set forth below)
  - Descriptive Title of the invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed Sponsored R & D
  - Reference to Sequence Listing, a table or computer program listing Appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawing(s) (if filed)
  - Detailed Description
  - Claim(s) **47**
  - Abstract of the Disclosure

4. ☑ Formal Drawing(s) *(35 USC 113)*   Total Sheets **65**

5. ☑ Oath or Declaration   Total Pages **8**
  a. ☐ Newly Executed
  b. ☑ Copies from prior applications 08/958,281; 09/175,645; 08/778,093 (37 CFR 1.63(d))
    i. ☑ DELETION OF INVENTOR(S)
    Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b). Total Pages **2**

6. ☑ Application Data Sheet. See 37 CFR 1.76
Total Pages **4**

7. ☐ CD-ROM or CD-R in duplicate, large table or computer program (Appendix)

8. ☐ Nucleotide and/or Amino Acid Sequence Submission *(if applicable, all necessary)*
  a. ☐ Computer Readable Form (CRF)
  b. Specification Sequence Listing on:
    i. ☐ CD-ROM or CD-R (2 copies); or
    ii. ☐ paper
  c. ☐ Statements verifying identity of above

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (Cover Sheet & Document(s)) _ Total Pages

10. ☐ 37 CFR 3.73(b) Statement   ☐ Power of
(when there is an assignee)   Attorney

11. ☐ English Translation Document *(if applicable)*

12. ☐ Information Disclosure Statement ((IDS)/PTO-1449) _ Total Pages   _ IDS Citations

13. ☐ Preliminary Amendment _ Total Pages

14. ☑ Return Postcard, specifically itemized (MPEP 503)

15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)

16. ☐ Nonpublication Request under 35 USC 122(b)(2)B)(i). Applicant must attach form PTO/SB/35 or its equivalent.

17. ☐ Other

18. If a CONTINUING APPLICATION, *check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:*

☐ Continuation   ☑ Divisional   ☐ Continuation-in-part (CIP) of prior application No: **09 / 842,756**

Prior application information: Examiner: **David O. Reip**   Group/Art Unit: **3731**

For Continuation or Divisional Apps only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation <u>can only</u> be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☑ Customer Number 23910   or   ☐ Correspondence Address below

NAME	Fliesler Meyer LLP
ADDRESS	Four Embarcadero Center, Fourth Floor
CITY	San Francisco STATE CA *ZIP CODE* 94111
COUNTRY	USA *TELEPHONE* 415/362-3800 FAX 415/362-2928
Name (Print/Type)	Sheldon R. Meyer *Registration No. (Attorney/Agent)* 27,660
Signature	*Date* March 1, 2004

2003

FEE TRANSMITTAL

TOTAL AMOUNT OF PAYMENT

Subtotal (1) + Subtotal (2) + Subtotal (3) = **($) 843.00**

Complete if Known	
Application Number	**Divisional of 09/842,756**
Filing Date	**March 1, 2004**
Inventor	**James F. Zucherman et al.**
Group Art Unit	**3732**
Examiner Name	**David O. Reip**
Attorney Docket Number	**KLYC-01056USE**

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to:

[ ] Charge the indicated fees to the below mentioned deposit account.

[X] Charge any additional fee required under 37 CFR 1.16 - 1.21 or credit any over payments to the below mentioned deposit account.[†]

[X] Applicant claims small entity status. See 37 CFR 1.27.

Deposit Account Number: 06-1325
Deposit Account Name: Fliesler Meyer LLP

2. [X] Payment Enclosed:
[X] Check   [ ] Other

FEE CALCULATION (fees effective 10/1/01)

1. FILING FEE

Large Entity Fee Cod/Fee	Small Entity Fee Code/Fee	Fee Description	Fee Due
1001/$770	2001/$385	Utility Filing	385
1002/$330	2002/$165	Design Filing	
1004/$750	2004/$375	Reissue	
1005/$160	2005/$80	Provisional Filing	

SUBTOTAL (1)   ($) 385

2. CLAIMS

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description
1202/$18	2202/$9	Claims in excess of 20
1201/$86	2201/$43	Independent claims in excess of 3
1203/$280	2203/$140	Multiple dependent claim
1204/$86	2204/$43	Reissue independent claims over original patent
1205/$18	2205/$9	Reissue claims in excess of 20 and over original patent

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description	Fee Due
1051/$130	2051/$65	Surcharge - late filing fee or oath	
1052/$50	2052/$25	Surcharge-late provisional filing fee or cover sheet	
1812/$2,520	1812/$2,520	For filing a request for reexamination	
1251/$110	2251/$55	Extension for response within first month[†]	
1252/$420	2252$210	Extension for response within second month[†]	
1253/$950	2253/$475	Extension for response within third month[†]	
1254/$1,480	2254/$740	Extension for response within fourth month[†]	
1255/$1,970	2255/$985	Extension for response within fifth month[†]	
1401/$320	2401/$160	Notice of Appeal	
1453/$1,300	2453/$650	Petition to revive unintentionally abandoned application	
1501/$1,330	2501/$665	Utility Issue Fee (Or Reissue)	
1502/$470	2502/$235	Design Issue Fee	
1460/$130	1460/$130	Petitions to the Commissioner	
1814/$110	2814/$55	Statutory Disclaimer	
1806/$180	1806/$180	Submission of Information Disclosure Statement	
8021/$40	8021/$40	Recording each patent assignment per property (times number of properties)	
1809/$750	2809/$375	Filing a submission after final rejection (37 CFR 1.129(a))	
1801/$770	2801/$385	Request for Continued Examination (RCE)	
		Other fee (specify):	
		Other fee (specify):	

SUBTOTAL (3)   ($) 0

For	(Col. 1) No. of Existing Claims		(Col. 2) Highest No. Previously Paid For		(Col. 3) Extra**		Fee		Fee Due
TOTAL	47	minus*	20	or =	27	x	9	=	243
INDEP	8	minus*	3	or =	5	x	43	=	215
[ ] First presentation of multiple dependent claim								=	0

* Subtract the greater number of Col. 2

** If the difference between Col. 1 and Col. 2 is less than zero, then enter "0" in Col. 3

SUBTOTAL (2)   ($) 458

SUBMITTED BY		Complete (if applicable)	
Typed or Printed Name	**Sheldon R. Meyer**	Reg. Number	27,660
Signature		Date	**March 1, 2004**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application Inventor: James F. Zucherman et al. Appl. No.: Division of 09/842,756 Filed: March 1, 2004 Title: Method for Lateral Implantation of Spinous Process Spacer	<u>PATENT APPLICATION</u> Art Unit: 3731 Examiner: David O.Reip **<u>Customer No. 23910</u>**

STATEMENT REQUESTING DELETION OF
<u>INVENTOR(S) UNDER 37 CFR §1.63(d)</u>

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present above-captioned application is a divisional application. Copies of executed oaths or declarations filed in prior applications, for which priority is claimed, are enclosed herewith, as allowed under 37 CFR §1.63(d)(1). Less than all the persons named as inventors in the oaths or declarations filed for the prior applications should be named in the present application.

STATEMENT: In accordance with 37 CFR §1.63(d)(2), the deletion of the following name(s), which were listed on the executed oaths or declarations, is requested. This deletion is requested because these persons are not an inventor of the claimed invention of the present application:

(1) <u>T. Wade Fallin</u>

(2) <u>Charles J. Winslow</u>

(3) _____

(4) _____

In accordance with 37 CFR §1.33(a), the undersigned, making the above STATEMENT, is:

<u>X</u>   A registered attorney or agent of record appointed under 37 CFR §1.34(b), or acting in a representative capacity under 37 CFR §1.34(a).

___   An assignee as provided for under 37 CFR §3.71(b).

No fee is required.

Respectfully submitted,

Date March 1, 2004
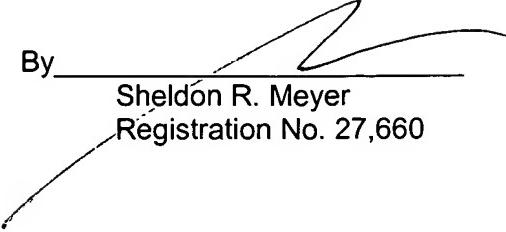
By _____
Sheldon R. Meyer
Registration No. 27,660

Fliesler Meyer LLP
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415/362-3800 Telephone
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